



**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF CHULA VISTA**

AND

**CHULA VISTA
POLICE OFFICER'S
ASSOCIATION**

FY 1998/99 through 2004/05

MEMORANDUM OF UNDERSTANDING CONCERNING WAGES AND OTHER TERMS AND
CONDITIONS OF EMPLOYMENT BETWEEN THE CITY OF CHULA VISTA AND THE CHULA
VISTA POLICE OFFICER'S ASSOCIATION FROM JULY 1, 1998 THROUGH JUNE 30, 2005.

| | | |
|------|--|----|
| 1.01 | PREAMBLE | 1 |
| 1.02 | RECOGNITION..... | 1 |
| 1.03 | CITY RIGHTS..... | 1 |
| 1.04 | ASSOCIATION RIGHTS..... | 2 |
| 1.05 | EMPLOYEE RIGHTS..... | 2 |
| 2.01 | WAGES | 3 |
| 2.02 | EDUCATION/P.O.S.T. INCENTIVE PAY..... | 4 |
| 2.03 | UNIFORMS | 5 |
| 2.04 | MILEAGE REIMBURSEMENT | 5 |
| 2.05 | WORK PERIOD/PAY PERIOD/WORK SCHEDULES..... | 6 |
| 2.06 | OVERTIME..... | 6 |
| 2.07 | CALLBACK | 8 |
| 2.08 | BILINGUAL PAY..... | 8 |
| 2.09 | DIFFERENTIAL PAY..... | 8 |
| 2.10 | HEALTH AND WELFARE | 9 |
| 2.11 | RETIREMENT..... | 12 |
| 2.12 | HOLIDAYS..... | 13 |
| 2.13 | VACATION AND SICK LEAVE..... | 14 |
| 2.14 | LEAVE OF ABSENCE..... | 18 |
| 2.15 | MILITARY LEAVE..... | 18 |
| 2.16 | JURY DUTY AND COURTLEAVE..... | 18 |
| 2.17 | RATE OF PAY FOLLOWING PROMOTION..... | 19 |
| 2.18 | OUT OF CLASSIFICATION ASSIGNMENT | 20 |
| 3.01 | PAYROLL DEDUCTION..... | 20 |
| 3.02 | PROBATIONARY PERIOD..... | 21 |
| 3.03 | ADVANCE NOTICE..... | 21 |
| 3.04 | GRIEVANCE PROCEDURE..... | 21 |
| 3.05 | PROHIBITED PRACTICES..... | 25 |
| 3.06 | DRIVING ELIGIBILITY..... | 26 |
| 3.07 | SUBSTANCE ABUSE..... | 27 |
| 3.08 | WORK SCHEDULE..... | 27 |
| 4.01 | HEALTH FITNESS PROGRAM..... | 27 |
| 4.02 | AMERICANS WITH DISABILITIES ACT | 27 |
| 5.01 | TERM AND EFFECT OF THIS MEMORANDUM OF UNDERSTANDING..... | 28 |
| 5.02 | RETENTION OF BENEFITS | 29 |
| 5.03 | SAVINGS CLAUSE | 29 |

1.01 PREAMBLE

The following constitutes a Memorandum of Understanding between the City of Chula Vista ("City") and the Chula Vista Police Officer's Association ("Association") as a result of meeting and conferring in good faith concerning wages, hours and other terms and conditions of employment, pursuant to Government Code Section 3500 et. seq. and the Employer-Employee Relations Policy of the City of Chula Vista.

1.02 RECOGNITION

The City recognizes the Association as the certified representative for all employees of the Police Department who are employed in the classifications of, or have the working titles of: Peace Officer, Police Agent, Police Sergeant, and Police Lieutenant.

1.03 CITY RIGHTS

Nothing contained herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of legislative or managerial policy.

The exclusive rights of the City shall include, but not be limited to, the right to:

Establish, plan for, and direct the work force toward the organizational goals of the City government.

Determine the organization, and the merits, necessity and level of activity or service provided to the public.

Determine the City budget.

Establish, regulate and administer a merit or civil service system which provides for all types of personnel transactions, including, but not limited to, determining the procedures and standards for the hiring, promotion, transfer, assignment, layoff, retention, and classification of positions in accordance with the City Charter, Civil Service Rules, and the established personnel practices.

Discipline or discharge employees for proper cause.

Determine the methods, means, numbers, and kinds of personnel, and the job or position content required to accomplish the objectives and goals of the City.

Effect a reduction in authorized positions.

Take actions necessary to carry out the mission of the City in emergencies and in other situations of unusual or temporary circumstances.

Continue to exercise efficient and productive management practices consistent with Federal and State laws and in compliance with the City Charter and City ordinances.

In exercising these rights the City shall comply with all applicable provisions of this agreement.

The establishment or exercise of City rights shall not be subject to meeting and conferring; provided, however, the Association shall not be precluded from meeting and conferring with representatives of the City when the consequences of decisions on matters of City rights directly affect wages, hours, and other terms and conditions of employment.

1.04 ASSOCIATION RIGHTS

- I. Authorized representatives of the Association shall be allowed reasonable access to unit employees at their work locations during working hours for the purpose of consulting with employees in the unit regarding the employer-employee relationship, provided that: (1) the work of the employee and the service of the public are not unduly impaired, and (2) the authorized representatives shall have given advance notice to the Chief of Police or his/her designated representative when contacting unit employees during the duty period of the employees. The Chief of Police or his/her designee shall determine the appropriate time for such access.
- II. The Association may be granted use of City facilities by the appropriate appointing authority for meetings composed of unit employees, provided such meetings are held outside regularly scheduled working hours for the group which is meeting, and provided space can be made available without interfering with the City needs.
- III. A reasonable amount of space shall be provided to the Association on City bulletin boards for legitimate communications with members. The Association shall be responsible to maintain space provided in an orderly condition and shall promptly remove outdated materials.
- IV. The City shall continue to bill the Association \$.10 per member per pay period for the actual costs incurred for dues deduction on behalf of the Association.

1.05 EMPLOYEE RIGHTS

- I. Employees may form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation in matters of employer-employee relations.
- II. City agrees that no officers, agents, representatives, members or anyone connected with either party will in any manner intimidate, coerce, restrain or interfere with employees to form, join or assist labor organizations or to refrain from any of these activities, specifically including the rights of employees to withdraw, revoke or cancel Association membership, or because of the exercise of any right provided to the employee by this agreement.

2.01 WAGES

- I. Base wages for represented employees shall be as set forth as described on Attachment A.

A wage increase of 2% shall be effective beginning the first day of the first full pay period after January 1, 2000.

Increase wages of Sergeants by 2% to reduce the spread in wages between the Sergeant and superior officers beginning with the first full pay period after July 1, 2000.

A wage increase of 9% for Officers, 11% for Agents and Sergeants, and 13% for Lieutenants, shall be effective beginning the first day of the first day full pay period after January 1, 2001.

A wage increase of 5% for Officers, 7% for Agents and 5% for Sergeants and Lieutenants, shall be effective beginning the first day of the first full pay period after January 1, 2002.

A wage increase of 5% for Officers, Agents, Sergeants, and Lieutenants shall be effective beginning the first day of the first full pay period after January 1, 2003.

A wage increase of 4% for Officers, Agents, Sergeants, and Lieutenants shall be effective beginning the first day of the first full pay period after January 1, 2004.

A wage increase of 4% for Officers, Agents, Sergeants, and Lieutenants shall be effective beginning the first day of the first full pay period after January 1, 2005.

- II. All other payroll and wage changes shall be made effective at the beginning of the regular pay period closest to the date of change.
- III. Distribution of paychecks shall be done only on regular paydays except in an emergency, when employees may receive their check on a day other than a regular payday if a memo is directed from the Chief of Police to the Finance Officer justifying the request.
- IV. All employees covered by this agreement may receive a maximum of two weeks earned vacation pay in advance. Vacation pay in advance will be made on a regular payday provided the employee notifies the Finance Department at least three (3) working days prior to the payday on which payment is desired.
- V. Step Advance - Each employee shall be required to complete the following specified number of months of continuous paid service at each step of the salary schedule prior to advancing to the next step of the schedule. Step increases may be delayed by the Chief of Police in cases of sub-standard performance. Only permanent status employees may appeal that decision through the Civil Service Commission. In cases of exceptional performance, an employee may be granted an early step increase or double step increase based on the recommendation by the Chief of Police and the approval of the Director of Human Resources, City Manager or his/her designee and Civil Service Commission.

Required months of service for each step shall be:

| <u>Months</u> | | <u>Step</u> |
|---------------|----|-------------|
| 6 months | in | A |
| 6 months | in | B |
| 12 months | in | C |
| 12 months | in | D |
| Thereafter | in | E |

VI. The City will pay 3% of the employee's portion of the PERS contribution.

Effective August 14, 1998, the City will pay 5% of the employee's portion of the PERS Contribution.

Effective with the first full pay period after January 1, 1999, the City will pay 6% of the employee's portion of the PERS contribution.

Effective with the first full pay period after July 1, 1999, the City will pay 7% of the employee's portion of the PERS contribution.

Effective with the first full pay period after January 1, 2000, the City will pay 9% of the employee's portion of the PERS contribution.

2.02 EDUCATION/P.O.S.T. INCENTIVE PAY

I. Employees represented by the Association shall be entitled to either \$150 or \$200 per month if they meet the educational/P.O.S.T. incentive pay requirements detailed below.

A. Police Officers or Agents who have obtained either an A.A./A.S. (or higher) degree or an Advanced P.O.S.T. Certificate shall be entitled to \$150 per month. Police Officers or Agents who have obtained both a B.A./B.S. (or higher) degree and an Advanced P.O.S.T. Certificate shall be entitled to \$200 per month.

B. Police Sergeants who have obtained either an A.A./A.S. (or higher) degree, a Supervisory P.O.S.T. Certificate or receive incentive pay specified in (A) above shall be entitled to \$150 per month. Police Sergeants who have obtained both a B.A./B.S. (or higher) degree and a Supervisory P.O.S.T. Certificate, or receive incentive pay specified in (A) above, shall be entitled to \$200 per month.

C. Police Lieutenants who have obtained either an A.A./A.S. (or higher) degree, a Management P.O.S.T. Certificate or receive incentive pay specified in (B) above, shall be

entitled to \$150 per month. Police Lieutenants who have obtained both a B.A./B.S. (or higher) degree and a Management P.O.S.T. Certificate, or receive incentive pay specified in (A) above, shall be entitled to \$200 per month.

- II. Employees represented by the Association who complete at least 3 college credits pursuant to an approved college degree program that is reasonably related to the employee's present position or is beneficial to the employee's professional development or must enhance career advancement potential within the City of Chula Vista Police Department shall be entitled to a \$75 bonus payment per semester. Said payment shall be payable at the end of each school semester in which proof of course completion is submitted and shall not exceed \$225 per fiscal year. The course work must reasonably relate to the employee's present position or be beneficial to the employee's city-related professional development or must enhance career advancement potential within the City of Chula Vista Police Department.

2.03 UNIFORMS

I. ISSUE AND REPLACEMENT

All regulation police uniforms (excluding shoes) and equipment will be provided at City expense. If regulation police uniforms or equipment are destroyed or damaged in the line of duty, they will be repaired or replaced as determined by the Chief of Police or his/her designee. Uniform cleaning will be the employees' responsibility. When an employee terminates employment with the Police Department, he or she must return to the City all regulation police uniforms and equipment provided at City expense; provided, however, that employees hired prior to July 1, 1984, may keep any equipment and uniforms they purchased before July 1, 1984.

II. CLEANING

Employees represented by the Association shall be entitled to a uniform cleaning allowance calculated at \$300 per year. Said cleaning allowance shall be payable during the first pay period ending in December.

2.04 MILEAGE REIMBURSEMENT

A. MILEAGE

Employees shall be subject to the City's mileage reimbursement program when required to use their private automobile for authorized City business, and effective August 14, 1998, at the rate prescribed and allowed pursuant to applicable provisions of the Internal Revenue Code.

If an employee is reporting to court or to training on their day off they may be reimbursed for up to a maximum of 50 miles total round trip. Employees will not receive mileage reimbursement for staff meetings, committee meetings or any other reason to return to work except for scheduled court or training.

B. PER DIEM

When an employee travels on official City business, and such travel includes an overnight stay, any meal expenses may be reimbursed on a per diem basis at the daily rate established by the City. If the employee is eligible to be reimbursed for less than all three meals in any one day, the per diem rate will be reduced by the normal maximum individual meal rates established by the City. In lieu of requesting reimbursement for meals on a per diem basis, the employee may choose to submit receipts for actual meal expenses, which will be reimbursed for the amount submitted so long as the amount is reasonable and necessary. The term "reasonable" will generally be interpreted to be an amount no greater than the normal maximum individual meal rates established by the City.

2.05 WORK PERIOD/PAY PERIOD/WORK SCHEDULES

- I. The City enacted the 7k exemption in the case of law enforcement as permitted under the Fair Labor Standards Act. The work period for law enforcement employees will be 80 hours in a 14-day cycle beginning at 00:01 on Friday and ending 14 days later.
- II. Any deviation from the current scheduling practice will be preceded by a meeting of a committee of the City and Association no more than 6 months and no less than 3 months before implementation of the new schedule. If a mutual agreement is not attained in the committee, the Chief of Police shall have final authority.
- III. The City shall have the right to "flex" schedules under any one of the following conditions: 1) on an as-needed basis for emergency situations, 2) on an as-needed basis for employees working in the following special assignments--the Gang Unit, the Street Team, the Cargo Unit, Regional Auto Theft Task Force, 3) for voluntary training assignments, 4) with the voluntary consent of the employee. Emergency situations shall be defined as natural disasters, declared civil disasters and riots within the City of Chula Vista, or when response is required under a mutual aid agreement.

2.06 OVERTIME

- I. Subject to the provisions of Paragraphs II through IV below, when an employee is required or is ordered to:
 - A. Work on his/her day off; or
 - B. Report back to work after he/she has left his/her work station; he/she shall be compensated for a minimum of two hours for such time worked in accordance with the provisions of the Fair Labor Standards Act and the 7k exemption. For purpose of calculating the overtime premium, time worked shall include paid time off and eligibility for overtime shall be based on hours worked during a work period in excess of 80 hours in a work period.

"Immediate" callbacks require the employee to return to the station or to proceed to a crime scene as soon as possible upon notification. "Non-immediate" callbacks require the employee to return to the station at a time certain, wherein said time is not designated as being as soon as possible. For immediate callbacks, overtime shall commence at the time of arrival at the station or at the crime scene, with an additional one-half hour added for work related activities undertaken between the time of notification and arrival.

- C. Association employees will be compensated for such time worked in accordance with the provisions of the FLSA and the 7K exemption. For the purpose of calculating the overtime premium, time worked shall include paid time off and eligibility for overtime shall be based on hours worked during a work period in excess of 80 hours in a work period.
- II. Holdovers Beyond Regular Shift - An employee who works beyond his/her regular scheduled shift by reason of, but not limited to, late calls, arrests, report preparation, etc. shall receive payment in accordance with Section C. above. In no event will an employee be paid for less than 15 minutes with such time disregarded and not accumulated.
- III. Court Time - Employees on scheduled time off, who are subpoenaed in the line of duty or required by the Chief of Police or his/her designee to be present in criminal or juvenile court, or other judicial proceedings, shall be compensated as provided under 2.06.I.C above for all time actually spent and required to be in court and all actual travel time required between the court and either the Police Station or the employee's home, as the case may be. Employees shall be guaranteed a minimum of three hours for each separate court appearance, including any travel time. Said employee shall be reimbursed for all actual mileage said employee travels between the court and either the Police Station or the employee's home, as the case may be, at the mileage reimbursement rate as set out in Section 2.04.
- For purposes of calculating payment, if a court appearance is scheduled to begin at a time contiguous with the end of an employee's shift, payment shall be made under the provisions of Section 2.06 III (Court Time). If, however, a court appearance begins during an employee's shift and extends beyond the normal end of that shift, payment shall be made under provisions of Section 2.06 II (Holdovers Beyond Regular Shift).
- IV. Overtime Premium Pay shall be calculated at the regular rate as required by the Fair Labor Standards Act.
- V. Compensatory Time - An employee eligible to receive overtime pursuant to this section may receive pay or compensatory time off. Compensatory time shall be calculated at the rate of 1-1/2 times the extra hours worked. The use of compensatory time in lieu of overtime pay will be at the option of the department head and/or supervisor, based on the employee's request while recognizing the overall staffing requirements of the department. Compensatory time shall not be accrued to an employee's credit for any time in excess of eighty (80) hours. A record of compensatory time earned and utilized shall be maintained on the biweekly pay records.

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- VI. A committee consisting of Police Department management and Police Officers Association members shall be formed to study the use of overtime in the department and develop recommendations as to how overtime can be managed more effectively.

2.07 CALLBACK

Whenever an employee is called back to work, after he/she has left his/her work site, and is required to return to work before the scheduled start of his/her next shift, he/she will receive a forty (\$40) differential, with pay as provided under 2.06 I. B. above. Effective August 14, 1998, the differential shall be increased to \$50.

2.08 BILINGUAL PAY

Those employees who, upon recommendation of the Chief of Police and the approval of the Human Resources Department and City Manager, successfully complete the Bilingual Performance Evaluation, and are regularly required to use their bilingual skills in the performance of their duties will receive \$125 per month in addition to their regular pay. The City and Association agree to develop mutually acceptable guidelines regarding ongoing performance evaluation.

2.09 DIFFERENTIAL PAY

- I. Standby - Employees shall receive \$75 compensation for each full bi-weekly period during which they are assigned standby duties or a prorated amount if the standby period is less than two (2) weeks. Standby duty is defined as that period of time, in addition to the employee's normal work week assignment, during which said employee must remain at all times where he/she can be contacted by telephone or pager, ready for callback to perform essential service within one (1) hour of notification. Effective the first full pay period after July 1, 2002, this compensation shall be increased to \$150.

Any callbacks that occur while an employee is on standby duty shall not reduce the amount of standby pay the employee would have earned had there not been a callback. Any overtime or callback pay shall thus be in addition to the standby compensation. In terms of FLSA, the parties agree that standby time shall not be counted as hours worked.

- II. Motorcycle Pay - Employees who are assigned to Motorcycle Duty shall receive \$85.00 per month. **(Appendix A)**
- III. Dog Handlers - Employees who are designated Dog Handlers will receive \$85.00 per month. **(Appendix B)**
- IV. Field Training Officers - Peace Officers and Police Agents who are designated Field Training Officers (FTO's) for the purpose of training Peace Officers will receive \$0.80 per hour additional compensation when they are actually engaged as FTO's. Police Agents shall not be considered

FTOs or receive FTO compensation for time spent training other Police Agents. Effective August 14, 1998, this compensation shall be increased to \$1.00 per hour. **(Appendix C)**

- V. Effective with the first full pay period after January 1, 2002, each Officer, Agent, Sergeant, and Lieutenant regularly assigned to work the first watch (graveyard) shift shall receive \$80 a pay period. (For example, a person regularly scheduled on first watch who is temporarily assigned to another watch will receive the pay but a person who is regularly scheduled on another watch and temporarily assigned to first watch will not receive the pay.)
- VI. Effective with the first full pay period after January 1, 2003, each Officer, Agent, Sergeant, and Lieutenant regularly assigned to work the third or fourth watch (swing) shift shall receive \$40 a pay period. (For example, a person regularly scheduled on third or fourth watch who is temporarily assigned to another watch will receive the pay but a person who is regularly scheduled on another watch and temporarily assigned to third or fourth watch will not receive the pay.)

2.10 HEALTH AND WELFARE

I. Section 125 Cafeteria Benefits Plan (aka Flexible Benefits Plan) -

The City will provide to each represented employee a Cafeteria Plan allotment of benefits intended to qualify under Section 125 of the Internal Revenue Code. Annually, the Plan Document containing the specific provisions of the Plan will be adopted by the City Council. That plan document will incorporate the provisions herein.

Enrollment-Newly eligible employees (new hires or those changing from an ineligible to eligible position) will be covered under the City's Cafeteria Benefits Program effective their date of hire in that eligible position. Employees who fail to submit required benefit election forms within 30 days of their date of eligibility will automatically be enrolled in the Employee Only category of the lowest cost City sponsored health plan available and the balance of their Cafeteria Benefits Plan allotment will be placed in the taxable Cash option.

- A. **Cafeteria Plan Allotments** - Effective January 1, 2001, the City will provide Cafeteria Plan allotments to represented employees (based on the number of their declared dependents:

| | |
|--------------------------------------|---------|
| Employee Only | \$2,384 |
| Employee Plus One Dependent | \$4,387 |
| Employee Plus Two or More Dependents | \$6,037 |

To maintain employees relative buying power to purchase health benefits from their Cafeteria Plan, annually, thereafter, the City will share any increases in cost for the Kaiser 4253-01 Medical Plan Premium or equivalent health maintenance organization (HMO) for the respective coverage group (e.g. Employee Only, Employee Plus One, etc.) on a 50/50 basis.

The City's share of the adjusted cost will increase or decrease and be made at the beginning Cafeteria Plan balance of the next available Cafeteria Plan year (January 1).

- B. **Medical Insurance** - From this allotment each represented employee must select coverage for themselves under one of the City sponsored medical plans, unless they are married to another City employee and are covered under the spouse's plan. In addition to their own coverage, the employee may elect coverage under one of the City sponsored plans for their qualified dependents.

Any difference between the Cafeteria Plan allotment and the cost of the coverage elected by the employee shall be paid by the employee through payroll deductions.

The City agrees to provide as a medical plan option, Kaiser 4253-01 (or an equivalent health maintenance organization (HMO)).

- C. **Dental Plan** - Represented employees will be eligible to participate in any City sponsored group dental plan. Any difference between the employee's available Cafeteria Plan allotment and the premium for the selected plan will be paid by the employee through payroll deductions.
- D. **Dental/Medical/Vision (D/M/V) and Dependent Care Reimbursement Accounts** - Employees may allocate a portion of their Cafeteria Plan allotment to either of the reimbursement account options.
- E. **Cash** - Employees may allocate a portion of the Cafeteria Plan allotment to a Cash payment that will be paid to the employee on a pro-rata accrual twice a year. This option is taxable.
- F. **Medical and Dental Premium Payroll Deductions as Pre-Tax** - As stated in paragraphs B and C above, any premiums for Medical or Dental coverage elected under the City's Cafeteria Plan that are in excess of the employee's Cafeteria Plan allotment will be paid by the employee via payroll deduction. These deductions will be made on a pre-tax basis as allowed under Sections 125, 105, and 213 of the Internal Revenue Code. If an employee would prefer to have the deductions taken on a post-tax basis, they must present their request for such change in writing to the Human Resources Department. If the City does not meet IRS requirements, or if the IRS regulations change for any reason, this benefit may be discontinued. It is the intent of the parties that participating employees receive the maximum benefit allowable in accordance with IRS regulations.
- G. **Insurance Coverage While on Leave of Absence Without Pay** - Represented employees on leave without pay for any reason may continue, at their own expense, their group insurance coverage by paying the full cost of their premium plus a 2% administrative fee. This provision is subject to Section 2.14 *Leave of Absence*, of this MOU which defines insurance coverage while on disability leave.

Upon an employee's return from leave without pay, the employee's benefits will be

reinstated to the same benefit level in effect prior to the leave without pay status, provided the employee is eligible to receive City benefits. Benefit coverage of an employee who paid for the cost of his or her insurance while on leave of absence and who returns to work prior to the 15th of the month, will not be required to pay their insurance premiums for that month.

- H. **Termination of Benefits Upon Separation of Employment** - An employee's coverage under the City's group medical, dental, and group term life insurance plans is effective through the last date of the month in which the employee's termination is effective.

The employee may continue their coverage beyond that date, at their own expense, in accordance with the Federal COBRA law. The cost of COBRA coverage is their premium plus a 2% administrative fee. This provision is subject to Section 2.14 of this MOU which defines insurance coverage while on disability leave.

II. Flexible Spending Accounts (FSAs)-Health Care and Dependent Care

Represented employees will be eligible to participate in the two Flexible Spending Account (FSA) options offered by the City. These accounts are allowed by Sections 125, 105, 129 and 213 of the Internal Revenue Code. Employees may elect to set aside a portion of their salary, on a pre-tax basis, to fund eligible health care and dependent care expenses. If the City does not meet IRS regulations, or if the IRS regulations change for any reason, this benefit may be discontinued.

The maximum amounts an employee may set aside are:

\$2,500 for Health Care

\$5,000 (from all sources, including Cafeteria Plan) Dependent Care

These accounts may only be established during the Benefits Open Enrollment or within 30 days of a qualifying change in family status as defined by the IRS.

Salary deductions will be taken 24 pay periods per year, bi-weekly except for those months with three pay periods, where deductions will only be taken two times. Reimbursements will be made on a schedule to be determined by the City. Requests for reimbursement must be made on forms provided by the City. Any monies not used by the end of the plan year will be forfeited. Specific details of the plan are provided in the City's Summary of Benefits publication available from Human Resources.

The City reserves the right to contract with a Third Party Administrator for administration of both FSAs. The City will pay the start-up costs associated with third party administration. Participating employees will pay any fees (monthly, per employee, or per transaction) required.

III. Life Insurance

The City agrees to contribute the amount necessary to provide each employee with \$10,000 in group term life and accidental death and dismemberment (AD&D) insurance. Represented employees may purchase additional life insurance through the City's group insurance plan, with said employees paying the additional cost through payroll deductions. These premium deductions will be taken on a pre-tax basis up to the maximum allowed by law. Any premiums for coverage in excess of that maximum will be taken on a post-tax basis. See Section 2.14 regarding payment for health and life insurance during an unpaid Leave of Absence of more than one month.

IV. The City and the Association agree to reopen and discuss health contributions and health benefit programs for classifications represented by the Association in January of the year 2003.

2.11 RETIREMENT

The City will provide to represented members retirement benefits via contract with the California Public Employees Retirement System (CalPERS).

As long as it has the clear legal authority to do so the City agrees to continue Section 414(h)(2) of the Internal Revenue Code relative to employee retirement contributions, which permits employee CalPERS contributions to be treated as deferred compensation.

The City will provide the 2% at 50 Retirement Plan (Section 21362) for Local Safety Members as provided for under the California Public Employees' Retirement System (CalPERS). In addition to payment of the mandatory employer's contribution to represented employees' retirement benefits, the City agrees to also pay the employee's portion of the PERS contribution, which is presently fixed at 9%.

The City will provide the following CalPERS contract options:

- A. One-Year Final Compensation (Section 20042) Effective 11/16/1990.
- B. Post-Retirement Survivor Allowance (Sections 21624, 21626, and 21628) Effective 02/01/1982.
- C. Credit for Unused Sick Leave (Section 20965) Effective 10/08/1976.
- D. 4th Level 1959 Survivor (21574) Effective 5/29/98. The \$2.00 monthly member cost for this benefit will be paid by the City.
- E. Military Service Credit as Prior Service (Section 20996) Effective 10/07/1994.
- F. PS Survivor Remarriage Allowance Effective 01/01/2000

Effective July 1, 2003, the City will provide the 3% @50 Retirement Plan for Local Safety Employees (Section 21362.2).

Effective July 1, 2004 (Pay period Beginning June 25, 2004), the City will provide Employer Paid Member Contributions Converted to Payrate During Final Compensation Period (Section 20692).

2.12 HOLIDAYS

I. "Hard Holidays" - During the term of this agreement, the following are the recognized holidays:

| | |
|-------------------------|-----------------------------|
| Independence Day | July 4 |
| Memorial Day | Last Monday in May |
| Labor Day | First Monday in September |
| Thanksgiving | Fourth Thursday in November |
| Christmas | December 25 |
| New Year's Day | January 1 |
| Martin Luther King, Jr. | Third Monday in January |

II. Holiday Pay

A. Association Members Who Cannot Observe a Normal Holiday Schedule

1. If an officer does not work a hard holiday, he/she will receive 8 hours pay.
2. If an officer works a hard holiday on an 8-hour shift, he/she will receive 8 hours pay plus time and one-half for each hour worked.
3. If an officer works a hard holiday on a 10-hour shift, he/she will receive 10 hours pay plus time and one-half for each hour worked.

For payment purposes, if a hard holiday falls on a Saturday or Sunday, the day of observance shall be the actual day of the holiday.

B. Association Members Who Can Observe a Normal Holiday Schedule and Who Work a 5/8 Shift

1. If the hard holiday falls on a scheduled work day, the officer shall be granted time-off, except as otherwise directed by the Department Head and/or supervisor.
2. If the hard holiday falls on a scheduled day off, the officer shall receive an extra day off.
3. If an officer works a hard holiday, he/she will receive 8 hours pay plus time and one-half for each hour worked.

For payment purposes, if a hard holiday falls on a Saturday or Sunday, the day of observance shall be the day observed by general City employees.

C. Association Members Who Can Observe a Normal Holiday Schedule and Who Work a 4/10 Shift

1. If the hard holiday falls on a scheduled work day, the officer shall be granted time-off, except as otherwise directed by the Department Head and/or supervisor. Holiday time-off shall be granted for the full 10 hour shift.

-
2. If the hard holiday falls on a scheduled day off, the officer shall receive an extra day off, for the full 10-hour shift.
 3. If an officer works a hard holiday, he/she will receive 10 hours pay plus time and one-half for each hour worked.

For payment purposes, if a hard holiday falls on a Saturday or Sunday, the day of observance shall be the actual day of the holiday.

III. Floating Holidays

Employees shall be credited with forty (40) hours floating holiday time each year of this MOU, 8 hours each for: Lincoln's Birthday, Washington's Birthday, Admission Day, Columbus Day and Veterans Day. Employees may take floating holiday time at their discretion with the approval of the Chief of Police or his/her designee.

- A. Floating Holiday Use - If an employee uses floating holiday time before the holiday passes and subsequently leaves City service, he/she will be charged for such time. If an employee does not use his/her floating holiday time before June 30 of a fiscal year, he/she will lose such time. The smallest unit of time chargeable to floating holiday time is one half (1/2) hour.

2.13 VACATION AND SICK LEAVE

I. Definition - For the purpose of this section, the following definitions shall apply:

- A. "Continuous service" means City service uninterrupted by separation.
- B. "Intermittent service" means City service interrupted by separation.
- C. "Time worked" includes actual time worked, holidays with pay, and leave of absence without pay (not to exceed one year) for which Workers Compensation is paid. It shall also include Saturdays, Sundays, or other regular days off which are immediately preceded or immediately followed by other time worked.
- D. "Active service" includes time worked, leave of absence without pay not to exceed fourteen (14) calendar days and leave of absence not to exceed one (1) year for which Workers Compensation is paid.

II. Vacation

- A. Vacation Accrual - Continuous service: Each employee paid at a biweekly rate who has had continuous full-time active service throughout the year previous to that in which the vacation is requested shall be entitled to an annual vacation with pay. The following provisions shall apply:

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- (1) Employees shall accrue 10 working days during the first year of service. This benefit will be accumulated at the rate of 3.07 working hours for each full biweekly pay period of service performed. Eligibility to apply for accrued vacation will be effective on the employee's six month anniversary date.
 - (2) Employees will accrue and be eligible to receive 10 working days annually (cumulative to a total leave balance of 20 working days) during the second through fourth year of service. This benefit will be accumulated at the rate of 3.07 working hours for each full biweekly pay period of service performed.
 - (3) Employees will accrue and be eligible to receive 15 working days annually (cumulative to a total leave balance of 30 working days) during the fifth through fifteenth year of service. The benefit will be accumulated at the rate of 4.60 working hours for each full biweekly pay period of service performed.
 - (4) Employees will accrue and be eligible to receive 20 working days annually (cumulative to a total leave balance of 40 working days) during the sixteenth and succeeding years of service. This benefit will be accumulated at the rate of 6.14 working hours for each full biweekly pay period of service performed.
- B. Vacation Payback - All members of represented classifications earning three weeks or more vacation annually will have the option of selling forty (40) hours of said vacation back to the City. The accumulated vacation balance will be reduced accordingly. Payment of vacation hours will be made the first payday of each month provided that the Finance Department has received ten working days advance notice of the request prior to the payday.
- C. Payment Upon Separation - At the time an employee is separated from the City service, whether voluntarily or involuntarily, he/she shall be granted all of the unused vacation to which he/she is entitled based upon his/her active service in prior years, and in addition, he/she shall be granted vacation based upon the length of his/her active service during the year in which the separation occurs and computed on the basis set forth in Section (A)(1). Payment shall be made hour for hour with any portion of an hour being considered a full hour.
- D. Vacation Use - Vacation balances shall be reduced by the actual time not worked to the nearest quarter hour. Absence may not be charged to vacation not already accumulated.

III. Sick Leave

- A. Accumulated paid sick leave credit is to be used for the sole purpose of protecting the employee's wages in the event absence is made necessary because of disability, injury or illness of the employee or serious illness or death in his/her immediate family.
- B. Sick Leave Accrual - Computation of sick leave: sick leave with pay is cumulative at the rate of 3.68 working hours for each biweekly pay period of service, 96 hours annually, beginning at the time of full-time probationary employment. A person who has held a

position with temporary or interim status and is appointed to a position with probationary status, without a break in service, may have such time credited to sick leave upon the recommendation of the Chief of Police and Director of Human Resources, and the approval of the City Manager.

- C. Maximum Sick Leave Accumulation - Unused sick leave may be accumulated in an unlimited amount.
- D. Sick Leave Use - Sick leave balances shall be reduced by the actual time not worked to the nearest quarter hour. Absence for illness may not be charged to sick leave not already accumulated.
- E. Sick Leave Verification - The City may require a doctor's certificate and/or a personal sworn affidavit verifying the nature, severity and cause of the disabling injury or illness of the employee to determine eligibility of sick leave. If an employee is required to furnish a doctor's certificate for absences of three days or less, the employee must have been notified of such requirement by the Chief of Police or his/her designee, with the approval of the City Manager or his/her designee, within 24 hours of the time the employee notifies the department that he/she will be absent because of illness or disability.
- F. Bereavement Leave - When an employee with permanent status is compelled to be absent from work because of the death of an immediate family member, an immediate family member of the employee's spouse, or any other person defined by the Internal Revenue Service as a dependent, and after such employee makes written request and receives written approval from the Chief of Police or his/her designee, such employee may be allowed the privilege to be absent from work with full pay up to five (5) days, plus reasonable travel time. Travel time will be actual time used not to exceed three (3) calendar days. Paid leave of absence for family death shall be charged to sick leave. Immediate family includes husband, wife, child, stepchild, brother, stepbrother, sister, stepsister, parent, step-parent or any other person serving as a parent, grandmother, grandfather, or any other person living in the same household as the employee.
- G. Sick Leave Reimbursement
 - (1) Employees who are unit employees on and before June 30, 1979, shall be entitled to sick leave reimbursement of 20.83% for up to 120 days (maximum 25 days) of unused sick leave upon honorable separation. Unit employees covered by this paragraph (1) are not eligible for benefits under paragraph (2).
 - (2) Employees who are not unit employees on June 30, 1979, and who become unit employees thereafter, shall be entitled to sick leave reimbursement as follows (to the exclusion and in lieu of any benefits under paragraph (1):
 - a. Such employees using four (4) days or less of sick leave during the fiscal year shall have the option of converting twenty-five percent (25%) of their remaining yearly sick leave pay.

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- b. Pay shall be computed based on the following schedule and all computations shall be rounded to the nearest whole hour:

| Remaining Yearly Sick Leave | Pay |
|-----------------------------|----------------|
| 12 days | 3 |
| 11 days | 2 days, 6 hrs. |
| 10 days | 2 days, 4 hrs. |
| 9 days | 2 days, 2 hrs. |
| 8 days | 2 |
| 7 days or less | 0 |

- c. If the pay option is selected, the paid sick leave hours shall be subtracted from the employee's accumulated yearly sick leave balance. The remaining sick leave hours shall be carried over and accumulated. (Example: Employee uses 4 days sick leave. He/she then elects to receive pay for 25% of remaining days, or 2 days. The 2 days are subtracted from his/her remaining yearly sick leave and the other 6 days are added to the employee's accumulated sick leave balance.)
- d. Payment will be made during the month of July of each year. Pay will be computed based on the employee's salary step on June 15, and will only be calculated for employees who have been on the payroll for one full year at the time calculations are made.
- e. Permanent employees covered by this paragraph (G)(2) who retire during the fiscal year will be compensated under this plan based on their formal retirement date. Prorated payment also will be made to an employee who terminates during the fiscal year. In the event of the death of an individual while employed by the City, 50% of the employee's unused, accumulated sick leave will be paid to the appropriate beneficiary.

- H. The City is proposing a Sick Leave Abuse Policy. Parties agree to meet and confer on this item as a separate process.
- I. During the term of the Memorandum of Understanding, the parties agree to re-open the discussion of Section 2.13 III Sick Leave, with the City to work with the POA regarding the use of sick leave upon approval of industrial disability retirement, with changes implemented only by mutual agreement.

2.14 LEAVE OF ABSENCE

Employees who are mentally or physically incapacitated to perform their duties, or who desire to engage in a course of study that will, in the judgment of the City, increase their usefulness on their return to the classified service, or who, for any reason considered to be in the best interest of the City government by the appointing authority and the Director of Human Resources, desires to secure leave from their regular duties may, on written request, subject to the recommendation of the Chief of Police and the Director of Human Resources, and with the approval of the City Manager, be granted leave of absence without pay for a period not to exceed one year. Employees asking for leave of absence without pay shall submit their request in writing stating the reasons why, in their opinion the request should be granted, the date when they desire the leave to begin, and the probable date of their return. For each leave without pay, the Director of Human Resources shall determine whether the employee granted such leave shall be entitled to their former position on their return from such leave or whether their name shall be placed on a reinstatement list for the class as provided for in the Civil Service Rules. If a request for leave is denied, the employee may appeal the denial to the Civil Service Commission.

Any employee who is on an unpaid leave of absence for more than one month for any reason including a leave for disciplinary purposes, shall pay the cost of their health and life insurance premiums as well as their dependents' for the entire period of unpaid leave of absence; provided, however, that this provision shall not apply if the leave of absence is a result of the employee being ill or disabled.

2.15 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of applicable State and Federal laws (California Military and Veterans Code).

2.16 JURY DUTY AND COURT LEAVE

A. JURY DUTY

Permanent and probationary employees who are called to serve on jury duty for any county, state or federal court within the San Diego area shall be entitled to paid leave under the following circumstances:

1. They must present to their supervisor the court order to appear for jury duty at least three weeks prior to their date to report.
2. All fees received by the employee for jury duty for days when schedule for work, excluding mileage, shall be paid over to the City.
3. The employee must submit a daily court authorized, stamped time card accounting for all hours of required service ordered by the court.

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4. If jury service and travel time from court to work is less than five hours in a work day, the employee is expected to return to work unless a justification is provided and approved or pre-authorized leave is approved.
 5. Employees who are required to serve jury duty on their scheduled days off will not be compensated for this time and may keep any fees paid by the court.
 6. If the employee is not required to report for jury duty on any particular day(s) they are then expected to be at work as per their normal schedule.
 7. It is the employee's responsibility to inform his or her supervisor on a daily basis if they are required to report for jury duty the following day. This may include calling the supervisor after or before normal working hours.
 8. Absence due to jury duty will be submitted on the City leave form.

B. COURT LEAVE

Court leave is paid leave granted by the City to enable an employee to fulfill his/her duty as a citizen to serve as a witness in a court action to which the employee is not a party, before a federal, Superior, or Municipal Court located within San Diego County.

Court leave shall be limited to:

1. Required attendance before Federal, Superior, Municipal, and Justice Courts located within San Diego County.
2. Time in attendance at court together with reasonable travel time between court and work if the employee can reasonably be expected to return to work.
3. Court leave shall not be granted when the employee is paid an expert witness fee.
4. The employee must submit to the City any payment received, except travel and subsistence pay, for court duty.
5. Court leave will only be granted to employees who are not litigants in a civil case, related to litigants in a civil case, or defendants in a criminal case.
6. Employees shall provide their supervisor with a copy of the legal subpoena and provide other documentary evidence of service.

2.17 RATE OF PAY FOLLOWING PROMOTION

When a unit employee is promoted, the new rate of pay will be the lowest step in the new range which will result in the employee receiving at least 5% more than the actual rate in the old classification. The actual

rate will also include Motorcycle, Dog Handler, or Agent pay if these differentials will be lost as a result of the promotion. It will not include Education Incentive or Bilingual Pay.

Employees previously receiving Bilingual Pay will continue to receive it if the new position requires the use of approved bilingual skills. This determination will be made by the Director of Human Resources upon the written request of the Chief of Police.

2.18 OUT OF CLASSIFICATION ASSIGNMENT

- I. Sworn personnel who are assigned duty as an Acting Agent, Acting Sergeant, or Acting Lieutenant in the Patrol Division for a period of at least one full regularly scheduled continuous work shift (excluding shift overlap(s)) shall receive compensation at a rate of five percent (5%) above his/her base pay. Payment will be retroactive to the time the out-of-classification assignment commenced and will continue until the out-of-classification assignment ends, provided the above full-shift minimum is met. Personnel assigned duty as an Acting Agent, Acting Sergeant or Acting Lieutenant in the Patrol Division during any shift overlap period will receive out-of-classification compensation for that overlap period provided the above full-shift minimum is met.
- II. Sworn personnel who are assigned duty as an Acting Agent, Acting Sergeant, or Acting Lieutenant in a division other than Patrol for a period of at least one continuous week (40 consecutive hours) shall receive compensation at a rate of five percent (5%) above his/her base pay. Payment will be retroactive to the time the out-of-classification assignment commenced and will continue until the out-of-classification assignment ends, provided the above full week minimum is met.
- III. The assignment of Acting Agent, Acting Sergeant, or Acting Lieutenant shall be made in writing and shall indicate the day and time the assignment begins. Out-of-classification assignment pay shall be calculated to the nearest quarter hour.
- IV. The decision as to whether a vacant position shall be filled and, if filled, whether it shall be filled by an out-of-class assignment or through overtime on a rank-for-rank basis shall be at the sole discretion of the Chief or his/her designee.

3.01 PAYROLL DEDUCTION

Upon the receipt of a written request and authorization from an employee for deduction of Association dues the City shall withhold such dues from the salary of the employee and remit the withholdings to the Association. The City shall continue to withhold such deductions unless the employee files a statement with the City withdrawing authorization for the continued withholding of the deductions. The effective date of withholding to the Association, and the effective date of discontinuance and all procedural matters shall be determined in accordance with the Rules and Regulations of the Finance Director.

3.02 PROBATIONARY PERIOD

Peace Officers shall serve an eighteen-month probationary period. Upon completion of the eighteen months, said employee shall be a permanent employee, unless the probationary period is extended by the appointing authority as provided in the Civil Service Rules. Agents, Sergeants, and Lieutenants shall serve a twelve-month probationary period as per the Civil Service Rules.

3.03 ADVANCE NOTICE

The City shall give reasonable advance written notice to the Association on any proposed change or new ordinance, resolution, departmental rule or regulation relating to the matters within the scope of representation proposed to be adopted by the City or the Department and the Association shall be given the opportunity to meet and confer with City or Department representatives prior to adoption.

3.04 GRIEVANCE PROCEDURE

This grievance procedure shall be in effect during the full term of this Memorandum of Understanding.

Section 1. PURPOSE. The purposes and objectives of the Grievance Procedure are to:

- (1) Resolve disputes arising from the interpretation, application or enforcement of specific terms of this agreement.
- (2) Encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances through the several supervisory levels where necessary.
- (3) Resolve grievances as quickly as possible and correct, if possible, the causes of grievances thereby reducing the number of grievances and future similar disputes.

Section II. DEFINITIONS. For the purpose of this grievance procedure the following definitions shall apply:

- (1) Manager: The City Manager or his/her authorized representative.
- (2) Working Day: A calendar day, excluding Saturdays, Sundays and hard holidays as described by this agreement.
- (3) Department head or head of a department: The chief executive officer of a department.
- (4) Director of Human Resources: The Director of Human Resources or his/her authorized representative.
- (5) Employee: Any officer or regular (not temporary) employee of the City, except an elected official.

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- (6) Employee representative: An individual who speaks on behalf of the employee.
 - (7) Grievance: A complaint of an employee, group of employees, or the Association arising out of the application or interpretation of a specific clause in this agreement.
 - (8) Immediate supervisor: The individual who assigns, reviews, or directs the work of an employee.
 - (9) Superior: The immediate supervisor to whom an individual reports.

Section III. REVIEWABLE AND NON-REVIEWABLE GRIEVANCES.

- (1) To be reviewable under this procedure a grievance must:
 - (a) Concern matters or incidents that have occurred in alleged violation of a specific clause in this agreement; and
 - (b) Specify the relief sought, which relief must be within the power of the City to grant in whole or in part.
- (2) A grievance is not reviewable under this procedure if it is a matter which:
 - (a) Is subject to those reserved City Management Rights as stipulated under Section 4 of the Employer-Employee Relations Policy for the City of Chula Vista or under management rights as specified in this agreement.
 - (b) Is reviewable under some other administrative procedure and/or rules of the Civil Service Commission such as:
 - 1. Applications for changes in title, job classification or salary.
 - 2. Appeals from formal disciplinary proceeding.
 - 3. Appeals arising out of Civil Service examinations.
 - 4. Appeals from work performance evaluations.
 - 5. Appeals that have Affirmative Action or civil rights remedy.
 - (c) General complaints not directly related to specific clauses of this agreement.
 - (d) Would require the modification of a policy established by the City Council or by law.
 - (e) Relates to any City group insurance or retirement programs.

Section IV. GENERAL PROVISIONS OF THE GRIEVANCE PROCEDURE.

- (1) Grievances may be initiated only by the employee or employees concerned or by the Association on behalf of itself regarding an otherwise grievable incident. The Association cannot grieve for itself an incident already grieved by an employee or group of employees. Conversely, an employee or group of employees cannot grieve an incident already grieved by the Association.
- (2) Procedure for Presentation. In presenting the grievance, the employee (or Association) shall follow the sequence and the procedure outlined in Section V.
- (3) Prompt Presentation. The employee (or Association) shall discuss his/her grievance with his/her immediate supervisor within ten (10) working days after the act or omission of management causing the grievance, or within ten (10) working days of when the employee (or Association), with the exercise of reasonable diligence, should have discovered the act or omission being grieved.
- (4) Prescribed Form. The written grievance shall be submitted on a form prescribed by the Director of Human Resources for this purpose.
- (5) Statement of Grievance. The grievance shall contain a statement of:
 - (a) The specific situation, act or acts complained of as an agreement violation;
 - (b) The inequity or damage suffered by the employee or an employee in an Association-represented class (if an Association grievance); and
 - (c) The relief sought.
- (6) Employee Representative. The employee may choose someone to represent him/her at any step in the procedure. No person hearing a grievance need recognize more than one representative for any employee at any one time, unless he/she so desires.
- (7) Handled During Working Hours. Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.
- (8) Extension of Time. The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
- (9) Consolidation of Grievances. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances shall, whenever possible, be handled as a single grievance.

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- (10) Settlement. Any complaint shall be considered settled without prejudice at the completion of any step if all parties are satisfied or if neither party presents the matter to a higher authority within the prescribed period of time.
 - (11) Reprisal. The grievance procedure is intended to assure a grieving employee the right to present his/her grievance without fear of disciplinary action or reprisal by his/her supervisor, superior or department head, provided he/she observes the provisions of this grievance procedure.
 - (12) Back pay. The resolution of a grievance shall not include provisions for back pay retroactive further than twenty (20) working days prior to the date the grievance is filed. However, if with the exercise of reasonable diligence the act or omission being grieved was not discovered within 10 working days of its occurrence, and the grievance is subsequently timely filed pursuant to Section IV (3), then the resolution of the grievance may include provision for back pay for a maximum period of one year from the date the grievance was filed.

Section V. GRIEVANCE PROCEDURE STEPS. The following procedure shall be followed by an employee (or Association) submitting a grievance pursuant to policy:

- Step 1 Discussion with Supervisor. The employee (or Association) shall discuss the grievance with the immediate supervisor informally. Within three (3) working days, the supervisor shall give his/her decision to the employee (or Association) orally.
- Step 2 Written Grievance to Superior. If the employee (or Association) and supervisor cannot reach an agreement as to a solution of the grievance or the employee (or Association) has not received a decision within the three (3) working days' limit, the employee (or Association) may within seven (7) working days present the grievance in writing to the supervisor who shall endorse his/her comments thereon and present it to his/her superior within seven (7) working days. The superior shall hear the grievance and give his/her written decision to the employee (or Association) within seven (7) working days after receiving the grievance.
- Step 3 Grievance to Department Head. If the employee (or Association) and superior cannot reach an agreement as to a solution of the grievance or the employee (or Association) has not received a written decision within the seven (7) working days' limit, the employee may within seven (7) working days present the grievance in writing to his/her department head. The department head shall hear the grievance and give his/her written decision to the employee (or Association) within seven (7) working days after receiving the grievance.
- Step 4 Grievance to Director and Manager. If the grievance is not settled at the department head level, it may be submitted by the Association Representative within twenty (20) working days to the Human Resources Director, who shall investigate and report his/her findings and recommendations to the City Manager within ten (10) working days. The City Manager shall provide his/her answer within ten (10) additional working days. The times indicated may be extended by mutual agreement. Any Employee grievance will be filed with the Association Representative at Step 4.

Following the submission of the City Manager's answer, and before going to Section VI, Advisory Arbitration, matters which are unresolved shall be discussed at a meeting between the parties during which all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation.

Section VI. ADVISORY ARBITRATION. Any dispute or grievance which has not been resolved by the Grievance Procedure may be submitted to advisory arbitration by the Association Representative or the City without the consent of the other party providing it is submitted within ten (10) working days, following its termination in the Grievance Procedure. The following advisory arbitration procedures shall be followed.

1. The requesting party will notify the other party in writing of the matter to be arbitrated and the contract provision(s) allegedly violated. Within five (5) working days of the receipt of this notice, the parties may agree upon an arbitrator, or panel of three arbitrators, trained in conducting grievance hearings.

If agreement on an arbitrator cannot be reached, the State Department of Industrial Relations shall be requested by either or both parties to provide a list of five arbitrators. Both the City and the Association shall have the right to strike two names from the list. The party requesting the arbitration shall strike the first name; the other party shall then strike one name. The process will be repeated and the remaining person shall be the arbitrator.

2. The arbitrator shall hear the case within twenty (20) working days after the arbitrator has been selected. The arbitrator may make a written report of their findings to the Association and the City within fifteen (15) working days after the hearing is concluded. The arbitrator shall make rules of procedure. The decision of the arbitrator shall be advisory to the City Manager who shall render a final decision within ten (10) working days.

The arbitrator shall have no authority to amend, alter or modify this agreement or its terms and shall limit recommendations solely to the interpretation and application of this agreement. The above time limits of this provision may be extended by mutual agreement.

3. Each grievance or dispute will be submitted to a separately convened arbitration proceeding except when the City and the Association mutually agree to have more than one grievance or dispute submitted to the same arbitrator.
4. The City and the Association shall share the expense of arbitrators and witnesses and shall share equally any other expenses, including those of a stenographer, if required by either party. If either party elects not to follow the advisory decision rendered by the arbitrator, that party shall pay the entire cost of the arbitration process, including the expense of the arbitrator, witnesses and/or stenographer.

3.05 PROHIBITED PRACTICES

- I. The Association shall not condone or counsel its members, or unit members, or any of them, to strike, fail to fully and faithfully perform duties, slow down, disrupt, impede or otherwise impair the normal functions and procedures of the Department except that nothing shall be construed in this

agreement to prevent the Association or its unit members from exercising any legal rights or remedies they may presently possess to redress a wrong.

- II. Should any unit employees during the term of this Memorandum of Understanding, and until such time that it is expressly or legally rescinded, breach the obligations of Paragraph I, the Chief of Police or his/her designee in conjunction with the City Manager or his/her designee shall immediately notify the Association that in his/her opinion a prohibited action is in progress.
- III. The Association shall promptly disavow prohibited actions and shall order such members either orally or in writing to immediately cease the prohibited activity, and provide the Chief of Police or his/her designee and the City Manager or his/her designee with a copy of that which they have orally stated or served upon its members to comply with Paragraph I herein.
- IV. If the Association disavows the alleged prohibited activity and takes all possible actions hereunder in good faith, the City shall not hold the Association responsible for imposition of such penalties or sanctions as the City may assess against the participants.
- V. Should the Association during the term of this Memorandum of Understanding and until such time that it is expressly and legally rescinded, breach its obligations, or any of them under this section, it is agreed that the City may pursue all legal and administrative remedies available to the City that it in its discretion may elect to pursue, provided such is presently provided for by law.
- VI. The agreements contained in Paragraphs I and V are in addition to and do not constitute a waiver of rights currently existing under the law.

3.06 DRIVING ELIGIBILITY

Whenever an employee drives a vehicle for City business, he or she shall have a valid California driver's license. In order to ascertain the validity of the employees' licenses, employees must present their driver's license to their supervisor upon request. If an employee's driver's license is revoked, suspended, or otherwise made invalid, the employee must immediately inform his or her supervisor. Failure to notify the supervisor may result in immediate disciplinary action. The City reserves the right to check with the Department of Motor Vehicles to investigate an employee's driving record and to determine if the employee's driver's license is valid.

An employee who does not possess a California driver's license will be considered for a non-driving position, if one is available in the employee's classification. The non-driving assignment will continue for a maximum of six (6) months if there is a reasonable expectation the employee will have a valid California driver's license at the expiration of that time. Extensions to the six (6) month limit will be considered on a case-by-case basis; however, in no case shall an employee receive more than one non-driving assignment in any three year period. When no non-driving assignment is available, employees may request a leave of absence without pay for six (6) months or until such time as their license is once again valid, whichever is shorter.

In order to assure that non-driving assignments are provided on a fair and equitable basis, the following procedures shall be observed:

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1. Each department will determine whether or not it has any non-driving assignments that can be filled by employees who would otherwise have driving assignments.
 2. Non-driving assignments will be given on a first come, first served basis. For example, if two employees in a department have non-valid driver's licenses and there is only one non-driving assignment, the first employee who comes forward will be given the non-driving assignment. The other employee may apply for a leave of absence as described above.

3.07 SUBSTANCE ABUSE

Represented employees are subject to the current substance abuse policy as stated in Resolution No. 13971, as adopted and approved by the City Council of the City of Chula Vista on February 21, 1989.

3.08 WORK SCHEDULE

During the term of this MOU, the parties agree to meet and discuss a 4-10 work schedule for detectives.

4.01 HEALTH FITNESS PROGRAM

A. Program Description

The City of Chula Vista along with the Police Officers Association agree that for the safety of the employee as well as the public, those employees who are represented by the P.O.A. should maintain a minimum level of physical fitness. The physical fitness of the employee will be assessed in two manners. The first will be a physical assessment and the second a physical agility test.

- B. All represented employees shall participate in an annual physical fitness assessment unless they request and receive an exemption from the Chief of Police. The initial assessment will generally consist of a physical conditioning assessment.

C. Physical Agility Test

Employees shall be required to take an annual physical agility test, in accordance with the standards and tests established as part of the physical agility program, unless they request and receive an exemption from the Chief of Police.

4.02 AMERICANS WITH DISABILITIES ACT

The parties recognize that the City must comply with the statutory provisions of the Americans With Disabilities Act (ADA). The ADA requires accommodations for individuals protected under the Act, and these accommodations must be determined on an individual, case-by-case basis. The parties agree that, in order to comply with the provisions of the ADA, the City may need to make exceptions to this MOU and/or to an existing policy, practice or procedure of the City relating to the terms and conditions of employment

not covered by this MOU. The parties agree that the City has the right to make such exceptions on an individual case-by-case basis, in order for the City to accomplish reasonable accommodation to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

The Association recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The City will notify the Association of these proposed accommodations prior to implementation by the City if the accommodations require the City to make an exception to this MOU; the City will not, however, share medical records or violate the privacy rights of the individual with a disability.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice, such as in the grievance procedure.

5.01 TERM AND EFFECT OF THIS MEMORANDUM OF UNDERSTANDING

- I. This Memorandum of Understanding shall remain in full force and effect from July 1, 1998 through June 30, 2005 (the date closest to July 1 that is the end of a pay period) and it is understood and agreed that the terms and conditions, wages, and all provisions of this Memorandum of Understanding shall continue in effect until a new Memorandum of Understanding is negotiated and subsequently ratified by the Association and the City Council. Said terms and conditions as outlined in this Memorandum of Understanding shall remain in effect from July 1, 1998 until the first pay period in July 2005, unless one of the parties notifies the other in writing not later than February 1, 2005, of its desire to modify or terminate the agreement and provides written proposals for such modifications no later than February 28, 2005. City agrees that if said written proposals are received from the Association by February 28, 2005, that the City will be prepared to commence negotiations on those proposals by March 1, 2005.
- II. The provisions of this Memorandum of Understanding shall be subject to Federal, State and local law.
- III. This MOU fully and completely incorporates the understandings of the parties hereto for the full term of this agreement, constituting the sole and entire understanding between the parties. It is further understood, however, that nothing herein prohibits the parties from changing and amending the terms of this MOU during the period of its effectiveness by further meet and confer sessions by mutual agreement. Nothing contained herein shall affect rights and privileges of parties as established by the laws of the State of California, as contained in the Government Code of the State of California under those provisions known as the Meyers-Milias-Brown Act, unless specifically referred to herein.
- IV. If at any time during the term of this M.O.U., through causes beyond the control of the City, the City does not have a sufficient amount of anticipated budgeted revenues or is required to make substantial unanticipated expenditures, then, in such event, the City may, with mutual agreement of the Police Officers Association, re-negotiate this M.O.U. and meet and confer on wages, hours and other terms

and conditions of employment. This section, however, in no way affects the existing right of the City to lay off employees.

5.02 RETENTION OF BENEFITS

The represented employees covered by this agreement shall retain all benefits provided herein for the full term of this agreement and for any such additional period of time as provided in Section 5.01; provided, however, benefits, rights, or privileges not specifically covered by this MOU, but subject to the Meyers Milius Brown Act, may be acted upon by the City without mutual consent after meeting and conferring with the Association.

5.03 SAVINGS CLAUSE

If any article or section of this Memorandum of Understanding should be held invalid by operation of law or by a final judgment of any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this Memorandum of Understanding shall not be affected thereby.

In the event of the invalidation of any article or section, the City and Association agree to meet within sixty (60) days after the expiration of any administrative or judicial appeal period/process for the purpose of meeting and conferring over said invalidated section or article.

For the City:

David D. Rowlands, Jr
City Manager

For the Association:

Frank Magor, President
Police Officer's Association

Attachment A

EFFECTIVE 01/12/2001

| CLASSIFICATION | STEP 1 | STEP 2 | STEP A | STEP B | STEP C | STEP D | STEP E |
|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Peace Officer | \$19.00 | \$19.95 | \$21.26 | \$22.32 | \$23.43 | \$24.61 | \$25.84 |
| Police Agent | | | 22.95 | 24.10 | 25.31 | 26.57 | 27.90 |
| Police Sergeant | | | 26.92 | 28.26 | 29.68 | 31.16 | 32.72 |
| Police Lieutenant | | | 31.56 | 33.14 | 34.80 | 36.54 | 38.36 |

NOTE: Police Recruits are represented by CVEA